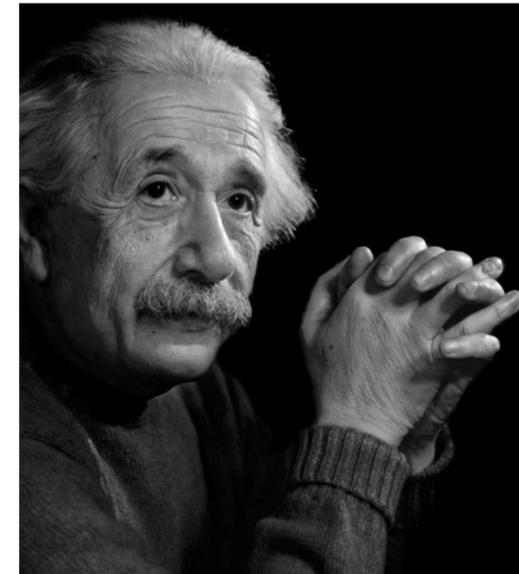


Confidentiality

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EDUCATION
IS NOT THE LEARNING
OF **FACTS**, BUT TRAINING
THE MIND TO **THINK**

- Albert Einstein

Learning Outcomes:

Define what is and isn't considered confidential information.

Outline the principles of confidentiality and describe three general conditions that establish a duty of confidentiality.

Name some situations that permit disclosure without consent by the patient or a responsible parent/other adult.

Explain why an unauthorised disclosure of information would be a breach of confidence.



Standards for the Dental Team
www.gdc-uk.org

Standards

General
Dental
Council | protecting patients,
regulating the dental team



**There are nine principles registered dental professionals must keep to at all times.
As a GDC registrant you must:**

-
- 1** Put patients' interests first

 - 2** Communicate effectively with patients

 - 3** Obtain valid consent

 - 4** Maintain and protect patients' information

 - 5** Have a clear and effective complaints procedure

 - 6** Work with colleagues in a way that is in patients' best interests

 - 7** Maintain, develop and work within your professional knowledge and skills

 - 8** Raise concerns if patients are at risk

 - 9** Make sure your personal behaviour maintains patients' confidence in you and the dental profession



Standards

You must:

- 4.1 Make and keep contemporaneous, complete and accurate patient records.
- 4.2 Protect the confidentiality of patients' information and only use it for the purpose for which it was given.
- 4.3 Only release a patient's information without their permission in exceptional circumstances.
- 4.4 Ensure that patients can have access to their records.
- 4.5 Keep patients' information secure at all times, whether your records are held on paper or electronically.



Introduction

Being a dental professional gives us many privileges. The most important privilege of being a dental professional is the right to ask patients confidential questions and to expect truthful answers.

There is an ethical and legal obligation to treat any patient information as completely confidential.





Q. Why do you think confidentiality between a dentist professional and their patient is important?



Confidentiality is central to the relationship of trust between a dental professional and their patient. This also applies to all members of the dental team.

The team should ensure they use any information for the purposes for which it is given.

For example, e-mail addresses are useful to communicate with patients but they should not be passed on to third parties.

CODE OF MEDICAL ETHICS

The obligation of confidentiality forms a vital part of the code of medical ethics. There is also the additional ethical obligation to safely store patient information.

This is to provide patients with access to their records as well as for our own clinical benefit.



Rights of patients

The right of patients to access their records varies from country to country. Patients are entitled to know what is recorded on their behalf and have access to this information.

They are usually given the right to correct any incorrect information. This expectation, and legal right, varies between different national legislations but the trend is almost universal towards greater access and openness.





Secure information

It is important to keep information securely stored at all times. This will prevent unauthorised access or information being accidentally revealed.

For example, speaking on the phone within earshot of another person.

PATIENT EXPECTATIONS

The expectation of confidentiality is central to a patient's trust in their dentist and the dental team. If patients think dentists cannot keep information confidential they will tell them nothing or withhold information.

If a patient's privacy is betrayed they must be protected from any potential distress, stigmatisation and/or discrimination.

Dentists must therefore keep all patient information private in order for patients to trust us with additional future information. Therefore, for ethical and practical reasons our duty to maintain confidentiality must be absolute.

There are a few exceptions which will be discussed later



WHAT IS CONFIDENTIAL INFORMATION?

The first question dental professionals must ask themselves is 'what is confidential information and what is not'?

Some patient information is clearly confidential such as the contents of a medical history. Other information such as a patient's hair colour or height cannot be confidential.

However, other information may not be as easy to categorise.



Is a patient's address confidential?

Is a patient's appointment time confidential?



Should you give information to a schoolteacher who calls to check on the whereabouts of a pupil?

There could be concerns for the pupil's safety.



Should you give information to the police when they ask if a person they suspect of a crime was having treatment on a particular date at your surgery or not?

This may be considered to be in the public interest.





Those situations present difficult dilemmas.

Each situation will demand a different response depending on not only the jurisdiction in which you work, but also the specific context.





ETHICAL DUTY OF CONFIDENTIALITY

Any information given to you in the context of your professional relationship with the patient is bound by the ethical duty of confidentiality. This is true even if other people could obtain the information by other means.



From an ethical and practical standpoint, how would you feel about your own personal information being given to others? This might help you to view things from another perspective.

Therefore, we should not treat information about others any differently from the way we would like to have our own personal information treated.





THE LAW

The law enshrines some of the ethical concept.

It also provides many general answers as to what constitutes confidential information and what would be a breach of confidentiality if it were disclosed.

We can then apply these general principles to specific cases.



What, therefore, is the legal duty of confidence?



DUTY OF CONFIDENCE

History has established the principles of confidentiality and describes three general conditions that establish a duty of confidentiality and also what constitutes a breach of that duty.



1. Inherent 'quality' of confidentiality

Information must have an inherent 'quality' of confidentiality. For example, a medical history or an item of treatment carried out.



2. Implying an obligation of confidence

Information must be disclosed in circumstances implying an obligation of confidence. If a patient gives information, within a dental practice and certainly in the treatment area, then those circumstances would almost always imply that obligation of confidence.



3. Disclosure would cause harm

Unauthorised disclosure would cause harm to the confider. This is invariably psychological rather than physical harm.



BREACH OF CONFIDENCE

Within the dental practice, information given by the patient in relation to their own treatment, must be regarded as confidential.

The circumstances of the health care environment would most definitely imply an obligation of confidence.



WHEN IS INFORMATION CONFIDENTIAL?

Q. If disclosure of information that is apparently confidential, would not harm the patient, now or in the future, then is that information confidential?



The dilemma of what is confidential, and what is not, obviously requires an assessment of the facts for each situation.

Apart from the legal guidelines outlined, it is also helpful to remember that personal health information is both confidential and indivisible.

Therefore, no part of the information should, in normal circumstances, be disclosed to any third party without the permission of the patient.



You cannot selectively disclose parts of the record that we do not consider to be confidential.



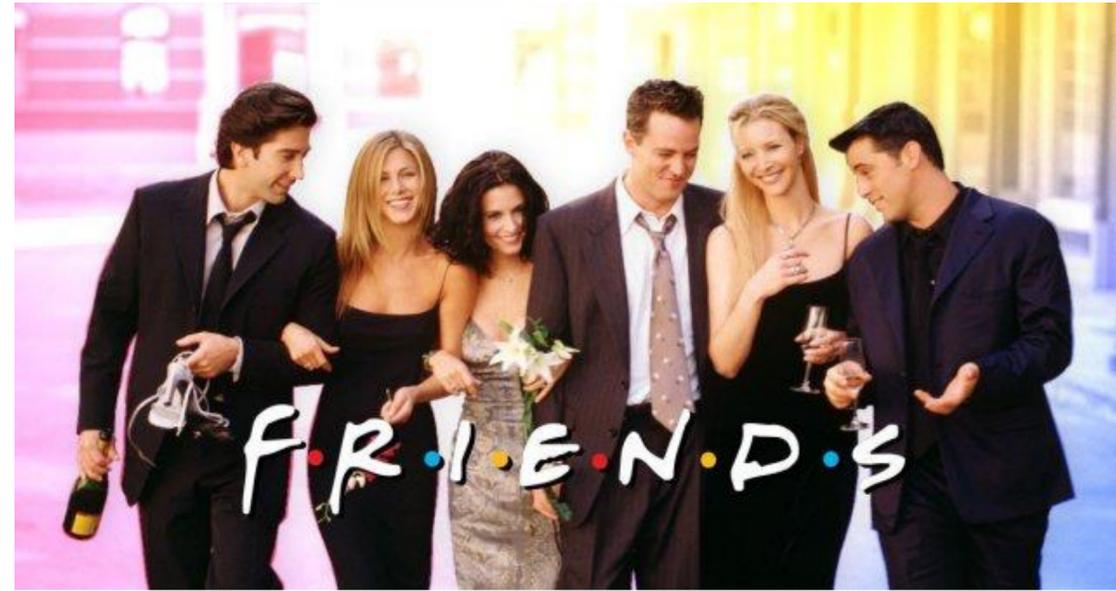


STAFF TRAINING

As previously mentioned, confidentiality also extends to other members of the dental team.

It must be stressed that you may have an indirect liability for the actions of your staff.

Good staff training is therefore essential. It would be a serious disciplinary matter for staff if they breach confidentiality after they have been made fully aware of their duties.



FRIENDSHIPS

The decision to disclose or withhold information can be awkward. Patients may have been coming to see you for many years and regard you as a trusted friend.

However, whilst you may have a friendly relationship with the patient, you are bound by the dentist's ethical code, to all of your patients.

They are first and foremost patients to whom you owe a duty of care and confidentiality.

It may cause some confusion or resentment from the person asking the question when you decide you cannot disclose seemingly innocuous information.

Instead of saying 'I cannot tell you', it may be easier to say, 'I'm afraid that my code of professional ethics prevents me from answering that question'. You can find similar words that are more comfortable to use in your practice.

Therefore, the refusal does not come from you as an individual but as part of a dentist's professional ethical obligations.



JUSTIFIED DISCLOSURE WITH PATIENT PERMISSION



Having stressed the importance of non-disclosure of confidential information, are there any circumstances where disclosure is or may be justified?

Information about the patient 'belongs' to the patient, not to the dentist; patient autonomy is paramount.



Therefore if the patient agrees to disclosure of their clinical information to a third party, then this would be permissible.

The third party could be a professional colleague or any person authorised by the patient.

In the case of children and adults without the capacity to consent, by a parent or other responsible adult.



NO ACCESS WITHOUT
PERMISSION

JUSTIFIED DISCLOSURE WITHOUT PATIENT PERMISSION



However, are there circumstances where disclosure without the patient's consent or even their knowledge can be justified?

These circumstances are extremely rare for dental information, but they do exist.



EXAMPLES OF JUSTIFIED DISCLOSURE

The following situations permit disclosure without consent by the patient or a responsible parent/other adult.

It must be stressed that it would be prudent to seek specialist advice and guidance if this type of request is made.



Where there is a legal or statutory requirement

This can include:

An infectious disease under public health legislation

An injury or occurrence under health and safety legislation

Public order or public safety legislation.



When ordered to do so by a court

This requires an order from the court/judge, not just a request from a lawyer.



When it is justified in the wider public interest

This would be rare. If such a request is made, or you consider it justified, it would be wise to seek specialist advice. For example, if a patient volunteers information about themselves which is incriminating.



For the purpose of an approved medical research project

In most cases the use of any patient material is dependent upon full consent to that use. However certain research projects, by their nature and methodology, require the patient not to know that they are being monitored.

These factors will be carefully weighed, justified and approved by a recognised research ethics committee. The participating dentist must be satisfied as to the validity of the research project.



Identification of deceased patients

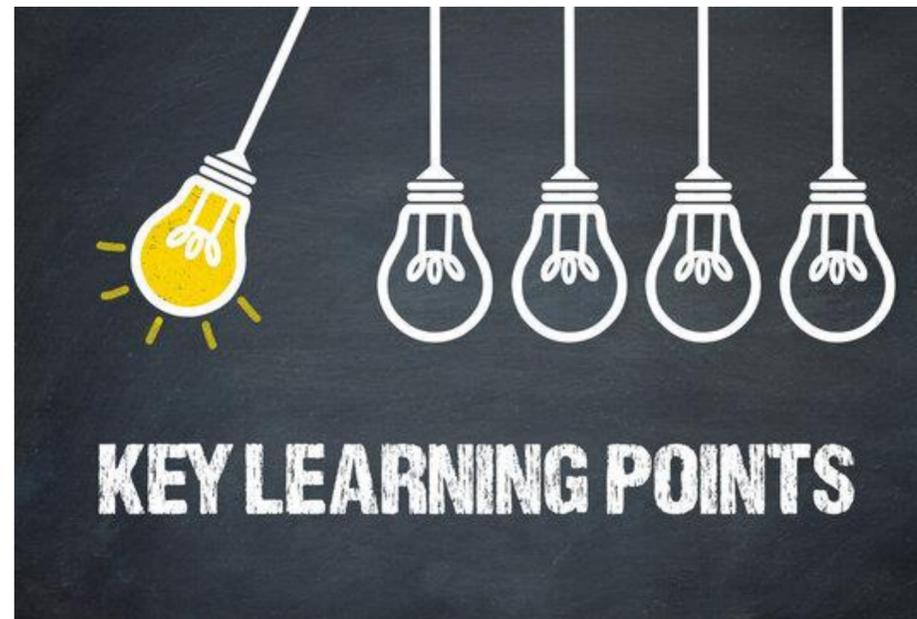
Often the only method of identification of human remains will be dental records. If the dentist is certain that the release of confidential records is justified by the circumstances then this can be done in order to minimise the distress of relatives.

There must however be a strong probability that the body in question is that of the patient and the records are to be used for corroborative identification.



KEY LEARNING POINTS





The need to maintain confidentiality of any information given to us in our professional capacity is paramount.

Patient autonomy and their absolute right to confidentiality must be ensured in almost all but the most exceptional circumstances. Patients have the ethical and legal right to expect confidentiality from their dentist and the dental team.

Patients also expect dentists to retain information safely for their access. Their trust in the maintenance of this confidence is central to the success of our professional relationship with them.

Confidentially can only be broken with a patient's consent or if there is an overwhelming public interest in disclosure. Any disclosure of information due to overwhelming public interest, and especially where there is any doubt in the dentist's mind, should be thought through carefully, and specialist advice and guidance sought where necessary.

